

REMARKS

This is in full and timely response to the above-identified Office Action. The above listing of the claims replaces all prior versions, and listings, of claims in the application. Reexamination and reconsideration in light of the proposed amendments and the following remarks, are respectfully requested.

Claim Amendments

Claims 1, 5 and 9 have been amended to improve syntax and better define the scope of the claimed invention. New claims 13 – 15 have been added. No new matter has been added. The newly presented claims find support in the originally filed specification at page 5, line 11; page 7, lines 18-19; and page 8, line 11, merely by way of example.

The newly presented claims are allowable over the cited art in at least they recite structure which is neither anticipated nor rendered obvious over the art of record. After the above claim amendments and additions, claims 1- 15 pend in the application.

Rejection under 35 U.S.C. §103

Claims 1, 2, 5, 6 and 8-12 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mohr (US 6,127,931). Claims 3, 4, and 7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Mohr in view of Sallen et al. (US 5,589,821).

These rejections are respectfully traversed for at least the reasons that follow.

In this rejection it is acknowledged that Mohr fails to disclose an attenuating unit for attenuating the transmitted signal. In order to overcome this admitted shortcoming, it is asserted that "it is well known in the art of wireless monitoring systems that the signal is being attenuated, modulated or filtered to produce a more enhanced signal that is less susceptible to interference". Applicant respectfully traverses this position.

The rejection fails to provide any prior art documentary evidence for supporting the alleged "well-known" use of an attenuating unit in a monitoring system, and in particular for the use of such a unit in the receiving unit of a monitoring system.

In accordance with MPEP 2144.03 Applicant seasonably challenges the veracity of the "well known" assertion and request that this position be supported by the citation of a reference or references. Further, MPEP § 2144.03 states:

It is never appropriate to rely solely on common knowledge in the art without evidentiary support in the record as the principal evidence upon which a rejection was based.

In addition, there is no motivation provided for the allegedly obvious modification of the arrangement disclosed in Mohr.

It is submitted that there are three possible sources for motivation to combine references: the nature of the problem to be solved, the teachings of the prior art, and the knowledge of persons of ordinary skill in the art. *In re Rouffet*, 149 F.3d 1350, 1357, 47 USPQ2d 1453, 1457-58 (Fed. Cir. 1998) This case law, however, establishes that, even if the combination of the references may possibly teach every element of the claimed invention, without a motivation to combine, a rejection attempting to establish a *prima facie* case of obvious must be held improper. Additionally, the level of skill in the art cannot be relied upon to provide the suggestion to combine references. *Al-Site Corp. v. VSI Int'l Inc.*, 174 F.3d 1308, 50 USPQ2d 1161 (Fed. Cir. 1999). (Emphasis added)

The present invention provides a receiving unit for a monitoring system with enhanced capability for determining accurate location of a monitored subject at short distances from the local monitoring unit. This capability is achieved by providing the receiving unit (i.e., the local monitoring unit) with an attenuation unit, which is controlled by the receiving unit micro controller. This allows for the attenuation of the received signal by changing the attenuating factor in response to the strength of the received signal.

More specifically, the attenuating unit prevents saturation of the receiver at short distances where, otherwise, saturation prevents accurate location of the monitored object. The ability to determine accurate location at close proximity of the local monitoring unit, besides providing enhanced location resolution, further allows for control over the accessibility of the monitored subject to particular zones or equipment within the confined area, by for example controlling door lock mechanism (see page 7 lines 17-20 and page 8 lines 12-16).

Mohr teaches a device for monitoring the movements of a person comprising a homing unit and a base unit adapted for determining if the homing unit is within a predetermined distance from the base unit and for generating an alarm upon determining that the distance from the home unit is greater than the predetermined distance. Also Sallen et al teaches an out-of-range monitoring system. Therefore, accurate location within the monitoring range and in particular at short distances from the base unit, where saturation occurs, is not an issue in either of Mohr and Sallen. In other words, the problem addressed by Mohr and Sallen is how to better determine and generate an alarm when the monitored person roams out of a preset monitoring range. This is the very antithesis of the problem addressed by the present invention. Namely, how to determine short range distances when the monitored person approaches to within a relatively close proximity of the local monitoring unit.

Applicant respectfully submits that no evidence has been provided for supporting the alleged obviousness of the use of an attenuating unit in a local monitoring unit or of the method claimed in claim 5, of adjusting the attenuating factor in accordance with the received signal strength indication. Indeed no such use is suggested by the prior art cited in the Office Action. Applicant further submits that incorporating an attenuating unit and an attenuating step in the receiving unit of a monitoring system enhances the monitoring system in a non-obvious manner.

Applicant submits that it is the knowledge of a problem that provides a reason for a person of ordinary skill, who must proceed with a total lack of any knowledge of the claimed subject matter and without any inventive activity, to apply his or her skill to the solution. Without this knowledge, which is certainly not forthcoming from the art applied, the person of ordinary skill is without motivation and thus would not, in this situation, be

able to proceed to combine the teachings of Mohr in the manner purported to be obvious in this office action. That is to say, the lack of any disclosure and therefore the lack of any knowledge of the close range saturation problem, would leave the person of ordinary skill with no motivation to consider a modification of the nature upon which the instant rejection is apparently based.

Conclusion

In order to establish a *prima facie* case of obviousness, it is necessary to show that the hypothetical person of ordinary skill would, without any knowledge of the claimed subject matter and without any inventive activity, be motivated to arrive at the claimed subject matter given the guidance of the cited references when each is fully considered as statutorily required.

It is submitted that the rejections fail to establish a *prima facie* case of obviousness and as such an allowance of the amended claims is respectfully requested.

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FOLEY & LARDNER LLP
Customer Number: 22428
PATENT TRADEMARK OFFICE
Telephone: (202) 672-5485
Facsimile: (202) 672-5399

Respectfully submitted,

By


William T. Ellis
Registration No. 26,874

Keith J. Townsend
Registration No. 40,358